

**REMARKS**

In the outstanding non-final Office Action<sup>1</sup> ("Office Action"), the following actions were taken:

1. the disclosure was objected to due to alleged informalities;
2. the disclosure was rejected under 35 U.S.C. § 112, first paragraph;
3. the drawings were objected to under 37 CFR 1.121(d) and 37 CFR 1.83(a);
4. claim 13 was objected to due to alleged informalities;
5. claims 1-13 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for "failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention";
6. claim 13 was rejected under 35 U.S.C. § 101;
7. claims 1, 3, 7, 9, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0230794 A1 to England et al. ("England"), in view of Magenheimer et al., *vBlades: Optimized Paravirtualization for the Itanium Processor Family*, May 6-7, 2004, ("Magenheimer"), and further in view of U.S. Patent No. 5,805,790 to Nota et al. ("Nota");
8. dependent claims 2 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over England, Magenheimer, and Nota, and further in view of U.S. Patent No. 4,674,038 to Brelsford et al. ("Brelsford");
9. dependent claims 4, 6, 10, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over England, Magenheimer, and Nota, and further in view U.S. Patent No. 6,633,942 to Balasubramanian ("Balasubramanian"); and
10. dependent claims 5 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over England, Magenheimer, Nota, and Brelsford, and further in view of U.S. Patent No. 5,499,379 to Tanaka et al. ("Tanaka").

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Below, Applicants respectfully traverse the above identified objections and rejections.

**1. Objection to the disclosure due to alleged informalities**

In the Office Action, the Examiner, citing alleged informalities, objected to the disclosure. Office Action at 2. Without agreeing with the examiner's contentions, and solely in the interest of advancing prosecution, Applicants have appropriately amended paragraphs [0015] and [0016]. Accordingly, Applicants respectfully request that the Examiner withdraw the above-identified objections to the disclosure.

**2. Objections to the disclosure under 35 U.S.C. § 112, first paragraph**

In the Office Action, the Examiner objected to the disclosure under 35 U.S.C. § 112, first paragraph, as being "replete with terms which are not clear, concise, and exact." Office Action at 2. Without agreeing with the Examiner, and solely to advance prosecution, Applicants have made appropriate amendments to every portion of the Specification where the allegedly unclear terms may be found. For example, appropriate amendments may be found at paras. [0015]-[0017], [0019], [0021]-[0022], [0024]-[0027], [0029]-[0030], [0037]-[0041], [0043]-[0044], [0057], [0059], [0064]-[0067], [0071], [0073]-[0076], [0080]-[0090], [0093]-[0096], [0101]-[0104], [0106], [0108]-[0109], [0111], [0115]-[0117]. Accordingly, Applicants respectfully request that the Examiner withdraw the objections to the disclosure under 35 U.S.C. § 112, first paragraph.

**3. Objections to the drawings**

In the Office Action, the drawings were objected to under 37 CFR 1.121(d) and 37 CFR 1.83(a). Office Action at pages 3-4. In particular, the Examiner objected to Figure 1, alleging that it should be designated "Prior Art," given that "only that which is

old is illustrated." Applicants have accordingly appended to this Amendment, a Replacement Sheet depicting Figure 1 along with the "Prior Art" legend. Next, the Examiner contends that the elements of claims 3, 5, and 6 must be shown in the drawings. Accordingly, Applicants have appended three new figures (Figs. 9, 10, and 11), each appropriately designated as a "New Sheet." New figures 9, 10, and 11 depict at least the elements of pending claims 3, 5, and 6 respectively.

Further, Applicants have on their own initiative provided replacement sheets with figures 2-8 in order to remove previously present ordering indications (i.e. designations of "1/8", "2/8") that are no longer accurate given the addition of figures 9-11.

Accordingly, Applicants respectfully request that the Examiner withdraw the objections to the drawings under 37 CFR 1.121(d) and 37 CFR 1.83(a).

#### **4. Objection to claim 13**

In the Office Action, the Examiner objected to claim 13 as allegedly having informalities. Office Action at 4. Without agreeing with the Examiner's contentions, and solely in the interest of advancing prosecution, Applicants have amended claim 13, in keeping with the Examiner's suggestions. Accordingly, Applicants respectfully request that the Examiner withdraw the above-identified objection to claim 13.

#### **5. The Examiner's rejection of claims 1-13 under 35 U.S.C. § 112, second paragraph should be withdrawn**

In the Office Action, the Examiner rejected claims 1-13 under 35 U.S.C. § 112, second paragraph, for allegedly "failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Office Action at 5.

Particularly, the Examiner contends that in claims 1, 7, and 13, it is "unclear what it means for an operating system to be in an 'interrupt enabled state' or an 'interrupt-

disabled state." *Id.* In response, Applicants respectfully point the Examiner to at least paragraphs [0009], [0013], [0019], [0025], [0065]-[0067], [0074]-[0080], [0082], and [0084]-[0087], where the specification elaborates on the meaning of the terms 'interrupt enabled state' and 'interrupt disabled state.' New figure 10 additionally server to clarify what the terms "interrupt-enabled state" and "interrupt-disabled state" encompass. Applicants also agree that the meanings applied by the Examiner to these terms, namely, "either accepting interrupts (enabled) or ignoring them (disabled)," fall within the scope encompassed by the above-identified terms.

The Examiner further contends that with regard to claims 1, 7, and 13, "it is unclear how the status information is used in the controlling of the interrupt process." Office Action at page 5. Particularly, the Examiner inquires with regard to "the role of the status information in the performance of an interrupt process execution or an interrupt process reserve." *Id.* In response, Applicants respectfully point the Examiner to at least paras. [0009], [0013], [0016], and [0019]. Additionally, new figure 10 provides visual information on, as well as further clarification on the role of status information in the performance of an interrupt process execution and an interrupt process reserve.

For at least the above reasons, Applicants respectfully request the withdrawal of the claim rejections under 35 U.S.C. § 112, second paragraph.

#### **6. The rejection of claim 13 under 35 U.S.C. § 101**

In the Office Action, the Examiner rejected claims 13 under 35 U.S.C. § 101 for being "directed to non-statutory subject matter." Office Action at pages 5-6. Particularly, the Examiner alleges that the claim as a whole "covers both transitory and non-transitory media." *Id.* at 6. Without agreeing with the Examiner, and solely in the

interest of advancing prosecution, Applicants have amended independent claim 13 to address the Examiner's concerns.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 13 under 35 U.S.C. § 101.

**7. The rejection of claims 1, 3, 7, 9, and 13 under 35 U.S.C. § 103(a) over England in view of Magenheimer, and further in view of Nota**

In the Office Action, claims 1, 3, 7, 9, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over England in view of Magenheimer, and further in view of Nota. Applicants respectfully traverse these claim rejections.

Independent claim 1, as amended, is directed to an apparatus and recites, in relevant part:

the main operating system, along with a system control operating system ...

setting a logical partition as a process unit,

enforcing a customizable upper limit on the resources available to the logical partition that one or more guest sub operating systems can allocate or release without communicating with the system control operating system

England, Magenheimer and Nota, alone or in combination, fail to teach or suggest at least the combination of elements recited above.

The Examiner alleges that England teaches "the main operating system, along with a system control operating system ... setting a logical partition as a process unit." Office Action at page 7. Even assuming that the Examiner is correct, which Applicants do not concede, no combination of England, Magenheimer and Nota teaches or suggests at least "the main operating system, along with a system control operating system ...enforcing a customizable upper limit on the resources available to the logical partition that one or more guest sub operating systems can allocate or release without

communicating with the system control operating system," at least because these references do not teach (1) a customizable upper limit on the resources available to a logical partition, or (2) resources available to the logical partition that one or more guest sub operating systems can allocate or release without communicating with a system control operating system.

For at least these reasons, England, Magenheimer, and Nota, alone or in combination, fail to teach or suggest all the elements of amended claim 1. Amended independent claims 7 and 13, although of different scope, contain elements similar to those of amended claim 1 that are not disclosed by England, Magenheimer, and Nota. Therefore, like independent claim 1, claims 7 and 13 are also patentable over England, Magenheimer, and Nota. Dependent claims 3 and 9 are also patentable over these references at least by virtue of their dependence from the above-identified independent claims. Applicants therefore respectfully request that the Examiner withdraw the rejection of claims 1, 3, 7, 9, and 13 under 35 U.S.C. § 103(a).

**8. The rejection of dependent claims 2, 4-6, 8, and 10-12 under 35 U.S.C. § 103(a) over England in view of Magenheimer and Nota, and further in view of one or more of Brelsford, Balasubramanian, and Tanaka**

In the Office Action, the Examiner rejected claims 2 and 8 under 35 U.S.C. §103(a) as being unpatentable over England, Magenheimer, Nota, and Brelsford; rejected claims 4, 6, 10, and 12 under 35 U.S.C. §103(a) as being unpatentable over England, Magenheimer, Nota and Balasubramanian; and rejected claims 5 and 11 under 35 U.S.C. §103(a) as being unpatentable over England, Magenheimer, Nota, Brelsford, and Tanaka. Office Action at 10-16. Applicants respectfully traverse these rejections.

As demonstrated above with respect to independent claim 1, England, Magenheimer, and Nota fail to disclose at least "the main operating system, along with a system control operating system ...enforcing a customizable upper limit on the resources available to the logical partition that one or more guest sub operating systems can allocate or release without communicating with the system control operating system," as recited in amended claim 1. Also as demonstrated above, amended independent claims 7 and 13 contain elements similar to the above-identified elements of claim 1 that England, Magenheimer, and Nota fails to teach. Brelsford, Balasubramanian, and Tanaka, alone or in combination, fail to cure at least the above-identified deficiencies of England and Nota. Consequently, amended claims 1, 7, and 13 are patentable over England, Magenheimer, Nota, Brelsford, Balasubramanian and Tanaka. Dependent claims 2, 4-6, 8, and 10-12 are also patentable at least by virtue of their dependence from claims 1 and 7.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 2, 4-6, 8, and 10-12 under 35 U.S.C. § 103(a).

### **Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

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Respectfully submitted,

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